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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,421	08/21/2003	James J. Ross	082454-0102	8063

26371 7590 10/22/2004  
FOLEY & LARDNER  
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MILWAUKEE, WI 53202-5308

EXAMINER


KOVACS, ARPAD F

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 10/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Interview Summary</b>	Application No. 10/645,421	Applicant(s) ROSS ET AL	
	Examiner Árpád Fábián Kovács	Art Unit 3671	

All participants (applicant, applicant's representative, PTO personnel):

(1) Árpád Fábián Kovács.

(3) \_\_\_\_\_.

(2) Mathew Anderson.

(4) \_\_\_\_\_.

Date of Interview: 19 October 2004.

Type: a) ☒ Telephonic    b) ☐ Video Conference  
c) ☐ Personal [copy given to: 1) ☐ applicant    2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes    e) ☐ No.

If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: 1, 17, 23-25, 32, 36 and 45-47.

Identification of prior art discussed: Wadzinski et al (5784868); Rosenblad (DES 295865); Plamper et al (4362228).

Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.



Examiner's signature, if required

## Summary of Record of Interview Requirements

### Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

### Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

#### Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

#### 37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

### Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments:

Applicant expressed that two types of claims exist in the application (or groups of claims), one related to an "appliance" and the other to an "accessory";

Applicant expressed that for example claim 17 is a subcombination claim, therefore it is not a combination with the powered appliance as recited;

Examiner found that similarly that subcombination is present in claims 24, 45, 46 & 47; Applicant's statement & confirmation of this finding is requested in a reply to this Interview Summary;

Examiner evaluating Applicant's statements during the interview, in re what is meant by "flexible" and by "compressible" as set forth to be used in interpreting these words, on page 7, in 3-8 & 8-14, came to the conclusion that there are two species of material used for the handle, and in the case of the "accessory" claims, the accessory is either "flexible" or "compressible" type; therefore restriction requirement is present, and an election between the two species can be made either in response to this Interview Summary, or will be requested over the phone or writing prior to the next Office Action;

The claims dealing with the "flexible" species are: 1-22, 32-44

The claims dealing with the "compressible" species are: 23-31, 45

Claims 46-48 appear to be generic.

In order to better assist understanding of Examiner's Office Action, and the rejection to be more apparent to the Applicant, the Examiner outlines in greater detail how the features are disclosed by Wadzinski. Considering the simplicity of the invention (a flexible/compressible member attached to a member), it is believed that the rejection to one skilled in the art is sufficiently disclosed.

(It is noted that Examiner's interpretation of the claim & Wadzinski is per the original interpretation, at the time of preparing the Office Action)

Wadzinski et al (578486):

In re claim 1: A powered appliance comprising:

a working member (ref 6);

a handle coupled (ref 4) to the working member (as shown in fig 1, the handle ref 4 is coupled to the working member); and

a control movable (ref 2) between a first position proximate the handle in which movement of the working member is permitted and a second position distant the handle in which movement of the working member is at least reduced (see the direction of movement in dashed line and ref A & B, and control ref 2),

wherein one of the handle and the control is configured to at least partially receive the other of the handle and the control prior to compression of the handle or the control when in the first position (the claim does not differentiate between the handle receiving or the control receiving the control and the handle respectively; but as shown in fig 2, semi circular or U-shaped upwardly facing control portion is complementing the shape of the handle tube for a resilient fit), and

wherein at least one of the handle and the control includes a flexible material (as shown and explained above, in fig 2, 3, 4, 5, the material is flexible due to its shape, i.e. U-shaped, also it is further shown in fig 5 that portion of the control is made of a different material, which is not only flexible but also compressible; the material wrapping it is of flexible and compressible type, such as rubber or other polymeric type) adjacent the other of the handle and the control.

In re claim 17:

substantially same recitation as above except for using functional recitation, and "a body configured to be ..." & "body includes a flexible portion" already explained above in re claim last paragraph, in which case the body is the material which wraps around the control, the flexible portion is the upper U-shaped portion;

In re claim 23:

as demonstrated above all limitations recited in the claim are explained above, the difference is that now "a compressible material" is recited instead of the "flexible material" ; however, as explained in the last paragraph in re claim 1, the material is compressible;

In re claim 24:

as demonstrated above in re claim 17 & 23, the claimed feature is met accordingly;

In re claim 25:

in view of the structure disclosed/taught by Wadzinski, the method of operating/using the device is inherent since it is the normal and logical manner in which the device is used;

it is pointed out that as the Examiner already illustrated above, the control member or tube has inherent rubber or polymeric outer surface, just as the Applicant's "tube" is not completely enclosed circle in cross section, similarly the prior art is U-shaped tube having the outer surface & inner cavity & opening or gap, so that the handle is inserted through this opening or upper portion of the U-shaped portion; the control as best shown in fig 3-5 is moved to first position adjacent the tube & at least a portion of the control is surrounded by the outer surface, as shown in fig 3-5, at least a portion of the control is not viewable because of wrapping;

In re claim 32:

in view of the structure disclosed/taught by Wadzinski, the method of operating/using the device is inherent since it is the normal and logical manner in which the device is used;

it is further pointed out that in view of cl. 1 explanation, as shown in fig 3, it is shown that the wrapping of the flexible member is at least partially about both the handle and the control;

In re claim 36:

in view of the structure disclosed/taught by Wadzinski, the method of operating/using the device is inherent since it is the normal and logical manner in which the device is used;

it is further pointed out, that this claim unlike claim 32, does not require both the handle & control to be wrapped around (surrounded), instead this is characterized by fig. 3 or 5 of the prior art; the securing the opposite ends of the flexible member about the handle or the control (at least) is as shown in fig 3 or 5;

In re claim 45:

in view of the structure disclosed/taught by Wadzinski, the method of operating/using the device is inherent since it is the normal and logical manner in which the device is used;

it is further pointed out, also see in re claim 23 & 25 above, that the compressible outer surface is inherent due to the design choice of the material being rubber or other polymeric type, while the inner surface due the nature of the material having inherent rougher surface and inherently not greased, it provides high friction inner surface for the body relative to one of the handle and the control when the body is coupled to the one of the handle and the control;

In re claim 46:

in view of the structure disclosed/taught by Wadzinski, the method of operating/using the device is inherent since it is the normal and logical manner in which the device is used;

Applicant's attention is directed especially to the explanation in re claim 25; and the gap in the upper U-shaped portion of the body is sized to substantially receive the other of the handle and the control;

In re claim 47:

in view of the structure disclosed/taught by Wadzinski, the method of operating/using the device is inherent since it is the normal and logical manner in which the device is used;

Applicant's attention is directed to the explanation in re claim 36.

In the interest of expediting Applicant's response, and in view of Wadzinski being a stronger reference than Rosenblad (DES 295865) and Plamper et al (4362228), therefore these two references are no longer used for rejecting claims 1-48.

Finally, it is believed that the above detailed explanation provides additional assistance for the Applicant to respond to the Office Action and to the Interview Summary.

### Applicant Initiated Interview Request Form

Application No.: 10/645,421 First Named Applicant: James J. Ross  
 Examiner: Arpad F. Kovacs Art Unit: \_\_\_\_\_ Status of Application: Pending

**Tentative Participants:**

(1) Examiner Kovacs (2) Mathew P. Anderson  
 (3) \_\_\_\_\_ (4) \_\_\_\_\_

Proposed Date of Interview: Tuesday, October 19, 2004 Proposed Time: 11:00 AM (AM/PM)

**Type of Interview Requested:**

(1) ☒ Telephonic (2) ☐ Personal (3) ☐ Video Conference

Exhibit To Be Shown or Demonstrated: ☐ YES ☒ NO

If yes, provide brief description: \_\_\_\_\_

### Issues To Be Discussed

Issues (Rej., Obj., etc)	Claims/ Fig. #s	Prior Art	Discussed	Agreed	Not Agreed
(1) _____	_____	<u>Wadzinski et al.</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(2) _____	_____	<u>Rosenblad</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3) _____	_____	<u>Plamper et al.</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4) _____	At least all ind. claims	_____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
[ ] Continuation Sheet Attached					

**Brief Description of Arguments to be Presented:**

The cited references do not appear to include each limitation of the claims. Moreover, several claim limitations, which the cited references do not appear to disclose, teach or suggest, were not specifically addressed in the Office action.

An interview was conducted on the above-identified application on \_\_\_\_\_.

**NOTE:** This form should be completed by applicant and submitted to the examiner in advance of the interview (see MPEP § 713.01).

This application will not be delayed from issue because of applicant's failure to submit a written record of this interview. Therefore, applicant is advised to file a statement of the substance of this interview (37 CFR 1.133(b)) as soon as possible.

Mathew P. Anderson  
 Applicant/Applicant's Representative Signature

MATTHEW P. ANDERSON  
 Typed/Printed Name of Applicant or Representative

54,589  
 Registration Number, if applicable

Arpad F. Kovacs  
 Examiner/SPE Signature

This collection of information is required by 37 CFR 1.133. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 123 and 37 CFR 1.11 and 1.14. This collection is estimated to take 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



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## FACSIMILE TRANSMISSION

Total # of Pages 2 (including this page)

TO:	PHONE #:	FAX #:
Examiner Kovacs USPTO		703-746-3542

From : Mathew P. Anderson  
Date : October 15, 2004  
Client/Matter No : 82454-102  
User ID No : 3757  
Application No.: 10/645,421

## MESSAGE:

Examiner Kovacs,

Thank you for agreeing to participate in an interview with me. Attached is the Applicant Initiated Interview Request Form that formally requests an interview with you on Tuesday, October 19, 2004 at 11:00 a.m. If you have any questions before Tuesday, please let me know.

I can be reached at manderson@foley.com or at (414) 297-5572.

I look forward to talking with you on Tuesday.

Mathew Anderson

If there are any problems with this transmission or if you have not received all of the pages, please call .

Operator:	Time Sent:	Return Original To: Pamela A. Torpy
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CONFIDENTIALITY NOTICE: THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS INTENDED ONLY FOR THE PERSONAL AND CONFIDENTIAL USE OF THE DESIGNATED RECIPIENTS NAMED ABOVE. THIS MESSAGE MAY BE AN ATTORNEY-CLIENT COMMUNICATION, AND AS SUCH IS PRIVILEGED AND CONFIDENTIAL. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT OR ANY AGENT RESPONSIBLE FOR DELIVERING IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT YOU HAVE RECEIVED THIS DOCUMENT IN ERROR, AND THAT ANY REVIEW, DISSEMINATION, DISTRIBUTION OR COPYING OF THIS MESSAGE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US BY MAIL. THANK YOU.

XXX,XXXXXX.XA

Cover Page 1 of 1

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PAGE 1/2 \* RCVD AT 10/15/2004 10:32:15 AM [Eastern Daylight Time] \* SVR:USPTO-EFXXF-210 \* DNIS:7463542 \* CSID:4143197016 \* DURATION (mm:ss):01:00